<div align="center">REMARKS</div>

Claims 1-6 and 8-27 are currently pending in the subject application and are presently under consideration. Claims 1, 18, 25 and 27 have been amended as shown on pages 2-6 of Reply. In addition, claims 22 and 23 have been cancelled and claim 28 has been newly added. A version of claims can be found on pages 2-6 of the Reply.

Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

I.   Rejection of Claims 1-6 and 8-27 Under 35 U.S.C. §102(e)

Claims 1-6 and 8-27 stand rejected under 35 U.S.C. §102(e) as being anticipated by Frogner *et al.* (US 6,735,553). Withdrawal of this rejection is requested for at least the following reasons. Frogner *et al.* does not teach each and every element of the claimed subject matter as recited in the subject claims.

> A single prior art reference anticipates a patent claim only if it expressly or inherently describes *each and every limitation* set forth in the patent claim. *Trintec Industries, Inc. v. Top-U.S.A. Corp.*, 295 F.3d 1292, 63 USPQ2d 1597 (Fed. Cir. 2002); *See Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). *The identical invention must be shown in as complete detail as is contained in the ... claim.* *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). (emphasis added).

The claimed subject matter relates to a network interface comprising an embedded network traffic analyzer. In particular, independent claim 1 recites *a system that facilitates analyzing a network, comprising: a network interface component that facilitates access to the network, **the network interface component comprising: a network traffic analyzer (NTA) component** that analyzes network data and diagnoses network related data problems**, wherein the network traffic analyzer component is embedded into the network interface component of a networked device** and independent claim 19 recites *a method for allocating network traffic analysis tasks **to networked devices** comprising: activating respective monitoring components **embedded into network interface of a plurality of devices of a network**, requesting resource utilization data from a subset of the activated monitoring components, accepting resource*

*utilization data from the subset of activated monitoring components, evaluating the resource utilization data, **determining which devices have greatest available resources based at least in part on the resource utilization data and allocating network traffic analysis tasks based at least in part on the available resources***. Frogner does not teach or suggest the aforementioned novel aspects of applicants' claimed subject matter.

Frogner provides a system and method for creating a network performance prediction model and calibrating the prediction model, through application of network load statistical analyses. The method includes characterizing the measured load on the network. The probabilistic representations are applied to the network performance prediction model to adapt the model for accurate prediction of network performance; and this reference fails to teach or suggest the claimed features of *the network traffic analyzer component embedded into the network interface component of a networked device* and *determining which devices have greatest available resources based at least in part on the resource utilization data and allocating network traffic analysis tasks based at least in part on the available resources.*

At page 3 of Office Action, it is erroneously asserted that Frogner teaches, *the network interface component comprising: a network traffic analyzer (NTA) component that analyzes network data and diagnoses network related data problems,* with respect to independent claim 1. The reference (Frogner) provides for a network performance model executing on a host device such as a computer. The host device (or computer) is connected to a network to enable communication with other devices. The network includes a LAN such as an Ethernet, or a WAN such as the Internet, connecting a plurality of workstations and other connected devices such as internet server and application server. The host device includes a central processing unit (CPU), a display device and a memory. A network performance analyzer is stored in the memory of the host device and is executed on the host device (*See*, Col. 3, lines 20-64). The network performance analyzer includes an analysis engine, a calibration engine and a user interface module. The analysis engine is operative to monitor and predict end-to-end performance of user applications on user-selected paths of the network, thereby providing a tool for highly accurate analysis of delays within the network. The network performance analyzer include the capabilities to inquire as to how the network will perform in alternate configurations, optimization of network resources among competing users, and comparison of actual versus expected network performance (*See*, Col. 4, lines 24-38). Hence, Frogner provides for a host

device that is connected to the network and the host device includes a network performance analyzer for monitoring and analyzing the network data. More particularly, Frogner requires *use of a dedicated and separate hardware (i.e. a host device or separate computer)* for monitoring and analyzing the network traffic. However, Frogner does not teach or suggest *a network interface component comprising: a network traffic analyzer (NTA) component that analyzes network data and diagnoses network related data problems, wherein the network traffic analyzer component is embedded into the network interface component of a networked device,* the networked device *being routinely connected to the network.* The claimed subject matter facilitates eliminating the need for a separate dedicated network performance analyzer such as host device in the network. The use of a dedicated network traffic analyzer is time consuming, inefficient and expensive for the network user. Furthermore, the presence of an additional device not normally a part of the network alters the network configuration and the loading on the bus. The addition of an additional device can mask the problem and/or create a new problem. The claimed subject matter provides for diagnosing the network problem without the need to add dedicated support equipment which alters the configuration of the network system and alters the load on the bus.

At page 6 of the Office Action, it is erroneously asserted that Frogner teaches, *a method for allocating network traffic analysis tasks to networked devices comprising: activating respective monitoring components embedded into network interface of a plurality of devices of a network*, with respect to independent claim 19. The cited portion of reference (Frogner) provides for a monitoring engine that monitors the prediction engine calculations by comparing the collected or measured load data with a predicted load probability distribution. If the predictive results from the predicted probability distribution tend to diverge substantially from the measured data, the monitoring engine is capable of initiating additional load data collection by a data capture module. The prediction engine is operative to predict network load and delay conditions at specific nodes for specific times, based on probability distributions based on collected load data (*See*, Col. 6, lines 39-67). A network performance analyzer is stored in the memory of a host device and is executed on the host device. The network performance analyzer includes an analysis engine, a calibration engine and a user interface module. The analysis engine includes a monitoring engine and a prediction engine and performs monitoring of captured data and predicting the network load (*See*, Col. 3, lines 20-64) Hence, Frogner provides

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for a host device including a monitoring engine and prediction engine for network traffic analysis. More particularly, Frogner requires a separate and dedicated hardware (*i.e.* a host device) for monitoring and analyzing the network traffic. However, Frogner does not contemplate allocating network traffic analysis tasks to *networked devices* and *activating respective monitoring components embedded into network interface of a plurality of devices of a network*. Further Frogner always allocates network traffic analysis to only the host device. However, Frogner does not contemplate determining *which devices* have greatest available resources among the networked devices based at least in part on the resource utilization data and *allocating network traffic analysis tasks based at least in part on the available resources.*

     At page 8 of Office Action, it is erroneously asserted that Frogner teaches *each of networked devices with a network interface comprises an embedded network traffic analyzer component*, with respect to dependent claim 24. The reference (Frogner) provides for a network performance analyzer executing on a host device such as a computer. The host device is connected to a network to enable communication with other devices. The network includes a LAN such as an Ethernet, or a WAN such as the Internet, connecting a plurality of workstations or computers. Other connected devices may include various servers. The host device includes a central processing unit (CPU), a display device and a memory. The network performance analyzer is stored in the memory of the host device and is executed on the host device (*See*, Fig. 2 & 3). Hence Frogner provides for storing and executing a network performance analyzer only at the host device. Further the host device is not a routinely connected networked device but a separate and dedicated network performance analyzer. However Frogner does not contemplate *each of networked devices with a network interface comprising an embedded network traffic analyzer component*, determining which devices have greatest available resources among the networked devices based at least in part on the resource utilization data and allocating network traffic analysis tasks based at least in part on the available resources.

     At page 8 of Office Action, it is erroneously asserted that Frogner teaches *one networked device comprising a network interface includes the data acquisition component and an another networked device comprising a network interface includes the post analysis and display component for the network traffic analyzer component*, with respect to dependent claim 27. The reference (Frogner) The reference (Frogner) provides for a network performance analyzer executing on a host device such as a computer. The host device is connected to a network to

enable communication with other devices. The host device includes a central processing unit (CPU), a display device and a memory. The network performance analyzer is stored in the memory of the host device and is executed on the host device. The network performance analyzer includes an analysis engine, a calibration engine, a data capture engine and a user interface module. The analysis engine includes a monitoring engine and a prediction engine and performs monitoring of captured data and predicting the network load (*See*, Fig. 2 & 3). Hence Frogner provides for storing and executing both the data capture engine and the analysis engine on the host device. More particularly, Frogner provides for performing both the data acquisition and the data analysis at the host device. Further the host device is not a routinely connected networked device but a separate and dedicated network performance analyzer. However Frogner does not contemplate *one networked device comprising a network interface includes the data acquisition component and another networked device comprising a network interface includes the post analysis and display component for the network traffic analyzer component.*

Accordingly, applicants' representative respectfully submits that Frogner fails to teach or suggest all limitations of applicants' claimed subject matter as recited in independent claims 1, 18, 19, 20 and 21 (and claims that depend there from). Consequently, this rejection should be withdrawn.

CONCLUSION

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [ALBRP296US].

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number below.

Respectfully submitted,

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